

REMARKS

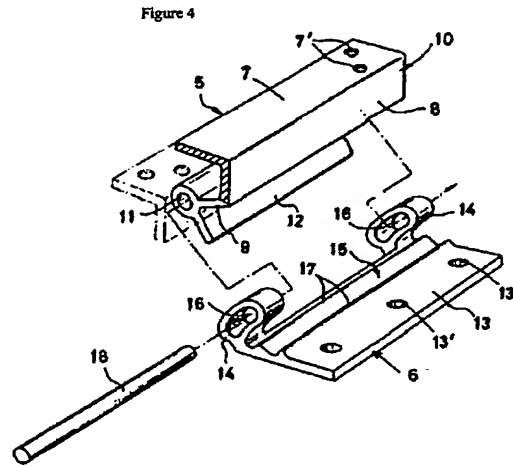
This amendment is in response to the Official Action dated November 8, 2006. Claims 1, 10, 17, 22, 29, and 41 have been further amended in order to once again clarify the nature and substance of the presently claimed invention. As has been consistently argued throughout the prosecution of this application, it is believed that the claims do specifically require that the kidney shaped receptacles comprise receptacles, slots, or channels within the opposite side portions of the window frame itself. Indeed, while applicants have been arguing that this has been the scope of the claims throughout the prosecution of this application, and that the language of the claims has continuously been directed to requirements that the window assembly hereof include a pair of kidney shaped receptacles which are formed in and part of the window frame itself, as is specifically shown, for example, in the drawings including FIGS. 3 and 4 hereof, the Examiner has continuously argued that the claim language previously employed did not include such a requirement. The original claims thus required that the kidney shaped receptacles be formed within the window frame, and the amended claims required that the kidney shaped receptacles comprise integral apertures within the window frame. The Examiner nevertheless continued to contend that this language in the claims did not specifically require what applicants continuously argued was the claimed structure hereof. In the latest Official Action, however, the Examiner now suggests that in order to overcome the art applicants should be more specific about the location of the receptacles "the frame having opposite side portions and a single receptacle/slot is within each of the opposite side portions." Applicants believe that they have now amended the claims in accordance with the Examiner's suggestion, to now specifically require that the arguments which have been presented to date in distinguishing

over the art, are now reflected in the claims, and that these claims are now fully patentable over that prior art. Indeed, applicant believes that this was the case in both prior sets of claims, but having made these arguments is certainly willing to ensure that the claims include these limitations in order to conclude the prosecution of this application.

Claims 1, 2, 5, 6, 10, 11, 13, 17, 19, 29, 30, 35, 36, 38, 40, and 41 have been rejected as being anticipated by Showa (Japanese Patent No. 58210289A) under 35 U.S.C. § 102(b). The Examiner contends that Showa discloses a window assembly including a window frame 3, a window sash 4 positioned within the window frame and capable of moving from closed to open tilted positions, a pair of parallel pivot pins 18 on the window sash 4, and a pair of kidney shaped receptacles 16 integrally disposed within the window frame 3 accommodating sash movement between positions. Showa is also said to disclose the sash 4 cooperating with the window frame 3 to limit the extent of the open tilted position noting that the upstanding wall to the left of the kidney shaped receptacle 16 as shown in FIGS. 2 and 3 with the upstanding wall acting as a water dam with the top portion of the wall angled 90 degrees for supporting the window sash 4. This rejection is respectfully traverse in view of the above amendments and arguments and for the reasons set forth hereinafter.

The claims now specifically require a kidney shaped slot or channel within each of the opposite side portions of the window frame. This language clearly distinguishes over the separate hinges or brackets which may be attached to a window frame in the prior art. To the contrary, the claimed slots or channels are manufactured as part and parcel of the opposite sides of the window frame itself.

Turning to the cited references, the arc-shaped guide hole 16 and guide part 14 in Showa can best be seen in FIG. 4 as follows:



This patent thus teaches that, at a pair of locations, support fittings 5 are attached to metal border 4 and include a pair of guide parts 14 extending therefrom. Thus, a single shaft 18 can pass not only through these guide parts, but also through the cylindrical shaft insert-through part 11 which is attached to the fold-back part 9 of attachment part 10. This can clearly be contrasted to the kidney shaped receptacle or channel 210 and 212 as shown, for example, in FIGS. 3 and 3A, which are integrally formed as slots or apertures in the window frame itself, as shown as follows:

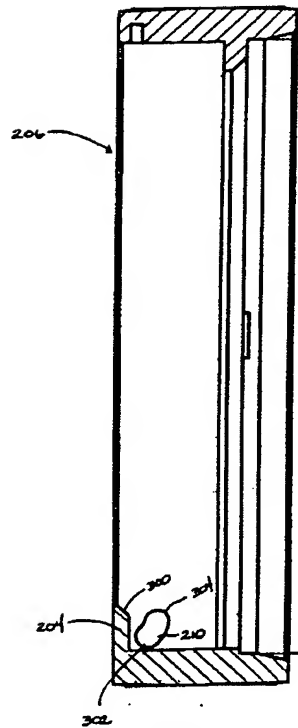


FIG. 3

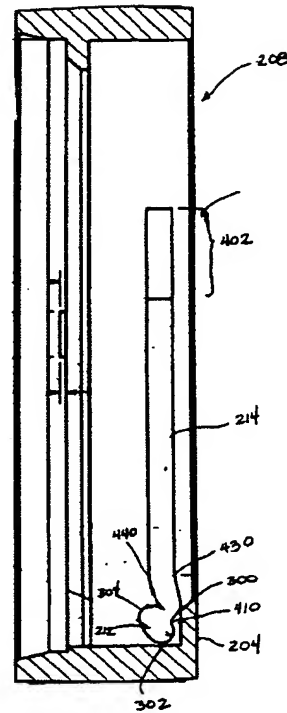


FIG. 3A

Acting in accordance with the presently claimed invention thus allows one to entirely eliminate all of the complicated structure shown in FIG. 4 of Showa. It is submitted that, in any event, the present claims clearly and patentably distinguish over Showa by positively claiming these limitations which the Examiner has asserted were not included in these claims to this point.

It is thus again submitted that Showa, in fact, teaches away from the present invention by specifically stating that the opening and closing devices of the prior art, which Showa is said to improve upon, render onsite installation work very troublesome by requiring "that a guide fitting for the metal border be provided within the side frame of the window frame."

It cannot be said that Showa teaches or suggests the presently claimed invention, including applicant's kidney shaped

receptacles, which comprise integral slots or channels in the window frame itself. Secondly, the claims require a pair of pivot pins, each associated with one of the pair of kidney shaped receptacles so defined therein. This is contrasted to the single shaft 18 which extends through both of the guide parts 14 in Showa.

We would further note that claims such as claim 5 also require not only that the lower portion of the window frame include a water dam, but that the window sash engage the water dam to define a maximum open tilted position. It is noted in this regard that the Showa reference does not include any such structure. The Examiner has referred in that regard to the upstanding wall acting as a water dam, apparently referring to the leg portion shown in FIG. D set forth in applicant's prior response as follows:

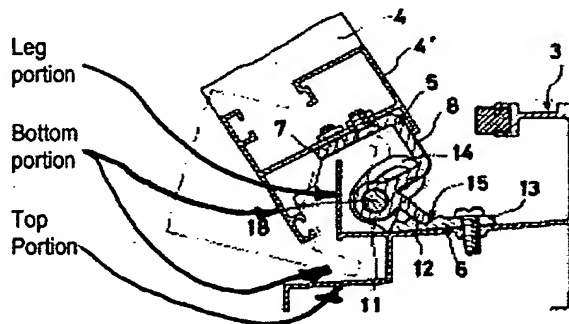


FIG. D

It is clear, however, that even if this structure could be said to act as a water dam, it is certainly not engaged by the window sash to define a maximum open tilted position. This claimed structure is shown, for example, in FIGS. 9 and 10 in the present application. In Showa, however, the leg portion of the frame referred to by the Examiner fails to support the window sash in an open tilted position. To the contrary, the bottom portion of the window sash shown in broken lines in FIG. D above can come to rest on the top portion of the window frame without

ever engaging the leg portion. Thus, the claimed water dam required by claims such as claim 5, is nowhere shown nor discussed in this prior art.

Finally, claim 6 also requires that the water dam further comprise an angled portion to support the window sash, yet another feature which is nowhere shown or suggested by Showa.

Claims 3, 12, 18, 29, 33, and 37 have been rejected as being unpatentable over Showa in view of Yanessa under 35 U.S.C. § 103(a). After admitting that Showa does not provide the pivot pins being retractable as required by these claims, Yanessa is said to disclose a sliding/pivoting sash with pivot pins which are retractable. The Examiner thus concludes that it would be obvious to provide Showa with retractable pins as taught by Yanessa, since retractable pivot pins allow the sash to be easily removed and attached to the window frame. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant would reiterate all of his above-noted contentions with respect to the clear deficiencies of the Showa reference with respect to each of the claims set forth in this application. Even based on the Examiner's contentions, the addition of Yanessa does not in any way overcome all of the above-noted deficiencies of the Showa reference. Turning to the Yanessa reference itself, this patent relates to horizontally movable panels arranged to be pivoted about a vertical axis. Thus, the window sashes shown in FIG. 1, for example, include sliding sashes 22 and 24 arranged to be slid to predetermined positions within the window frame 26, and which permit it to be pivoted about a vertical axis out of the frame plane. Thus, the pivot assemblies provided include a rod-like element 152 as shown in FIGS. 5 and 8. In this manner, when the sash is moved

into the appropriate position with its pivot assemblies aligned with aperture 150 in tracks 34, and the locking finger has been removed, the free end 154 of each rod extends through aperture 132 into the lined apertures 150 in the track. It is thus clear that the disclosure in Yanessa, while generally setting forth a retractable pin in a window structure quite unlike that of the present invention, certainly does not teach one of ordinary skill in this art to use a pair of retractable pins in the manner required by claims such as claim 3 herein. Once again, neither Showa nor Yanessa provides any legitimate disclosure of the basic structure of kidney shaped receptacles comprising integral apertures within the window frame itself for accepting each of a pair of parallel pivot pins to accommodate movement of the window sash between its open and closed positions. Without that disclosure, however, the mere reference to retractable pins of any kind, including that of Yanessa, does not assist one in obviating the present invention.

Claims 4, 15, 20, 22, 23, 25, 26, 32, and 39 have been rejected as being unpatentable over Showa in view of Menegazzo under 35 U.S.C. § 103(a). After admitting that Showa fails to teach a channel extending along a portion of the window frame, Menegazzo is said to disclose a window assembly with a channel guide 16 extending along a window frame with a kidney shaped receptacle 17 at a pivoting end thereof. The Examiner thus concludes that it would be obvious to provide the window assembly of Showa with a channel guide extending along a portion of the frame as taught by Menegazzo, since a channel extending a portion of the window frame allows the window sash to be tilted greater than 90° from normal. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant again reiterates his above-noted contentions with respect to the clear deficiencies of the Showa reference

with respect to the basic elements of the claims herein. The Menegazzo reference once again clearly fails to teach the basic elements of these claims, including a kidney shaped opening formed within the window frame itself. Indeed, Menegazzo teaches the use of a channel formed on a side frame or vertical leg of a window frame. This alone cannot be said to overcome the deficiencies in the primary reference in this case, even if these references were properly combined. It is therefore clear that this combination of references neither teaches nor suggests the presently claimed invention including, for example, the limitations of claim 4 requiring at least one insertion channel connected to the kidney shaped receptacle permitting the window sash to be inserted into the frame in a tilted position when a parallel pivot pin engages the insertion channel, and the window frame moves down into a fully inserted position. This is neither shown nor suggested by the references, including Menegazzo.

Claim 27 has been rejected as being unpatentable over Showa and Menegazzo in view of Yanessa under 35 U.S.C. § 103(a). The Examiner contends that these three references teach all of the elements of the claimed invention, with Yanessa teaching retractable pivot pins. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant has set forth in detail the clear deficiencies of each of the cited references, including the primary Showa reference and the secondary Menegazzo and Yanessa references, as discussed above. The combination of these references does not teach or suggest each of the elements of claim 27, and mere reference to a retractable pin in Yanessa once again does not overcome the clear deficiencies of the primary reference to Showa. It is thus again submitted that these claims clearly define patentable subject matter over the



cited art, and reconsideration and allowance of these claims is therefore respectfully requested.

If, however, for any reason the Examiner still believes that such action cannot be taken, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any further deficiencies believed to be present herein.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: March 22, 2007

Respectfully submitted,

By 

Arnold H. Krumholz  
Registration No.: 25,428  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant